

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

Case No. 1:18-cv-00950-LO-JFA

**DECLARATION OF THOMAS KEARNEY IN SUPPORT OF ITS
MOTION IN LIMINE NO. 5 TO EXCLUDE PLAINTIFFS' EXHIBIT NUMBER 39**

I, Thomas Kearney, hereby declare:

1. I am Of Counsel with the firm of Winston & Strawn LLP, attorneys of record for Defendants Cox Communications, Inc. and CoxCom, LLC (collectively, "Cox"). I have personal knowledge of all facts stated in this declaration, except those that are stated on information and belief. If called upon as a witness, I could and would competently testify thereto.

2. On information and belief, on February 25, 2019, Plaintiffs sent a hard disk drive to the New York office of Winston & Strawn. I was informed by a member of Winston & Strawn's litigation support team that this hard disk drive appeared to be partially corrupted and that certain folders and files on it could not be opened.

3. In a letter sent via email the following day, February 26, 2019, my colleague Jennifer Golinveaux informed Plaintiffs of these issues, and requested a functioning version of the hard disk drive. I received a copy of this letter.

4. On information and belief, our New York office received another hard disk drive from Plaintiffs (the "Hard Drive") on February 27, 2019. My review is based on this Hard Drive.

5. Based on my review, the files on the Hard Drive fall into two main categories:

(1)

[REDACTED]

(2)

[REDACTED]

6. A Winston & Strawn paralegal, working under my direction, used standard Windows command-line commands to retrieve the following metadata for all the files on the Hard Drive:

- The date and time the file was created;
- The date and time the file was last modified.

7. Based on my review of this metadata:

- [REDACTED] This is the day before we received the Hard Drive in our office.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. I understand that the [REDACTED] date generally reflects the date when the physical copy of the file was created, i.e. when it was placed on the medium where it resides [REDACTED]

[REDACTED]. I also understand that the [REDACTED] generally reflects when the format or contents of the file were last altered, [REDACTED]

[REDACTED]

Executed this 19th day of October, 2019 in Kensington, California.

/s/ /Thomas Kearney/

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